IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

FRIDAY, THE 20TH JULY 2007 / 29TH ASHADHA 1929

Crl.Rev.Pet.No. 624 of 1999()

CRA.171/1996 of SESSIONS COURT, THRISSUR DT.9.6.1999.
CC.79/1994 of JUDL. MAGISTRATE OF FIRST CLASS COURT, IRINJALAKUDA DT. 21.5.1996
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REVN. PETITIONER: APPELLANT/ ACCUSED

KANNAN, S/O. AYYERI RAGHAVAN,
KERALA.

BY ADV. SRI.P.VIJAYA BHANU
SRI.S.R.MANOJ

RESPONDENT: RESPONDENT/ COMPLAINANT

STATE OF KERALA, REP.BY
PUBLIC PROSECUTOR HIGH COURT OF
KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.AMJAD ALI

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 20/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.R.UDAYABHANU, J

Crl.R.P.No.624 of 1999

Dated this the 20th day of July, 2007

O R D E R

The revision petitioner stands convicted for the offence under Section 326 IPC and sentenced to undergo R.I. for a period of six months and to pay a fine of Rs.5,000/- and in default, to undergo R.I. for a further period of six months.

2. The prosecution case is that on 7.7.1993, at about 8.45 p.m., the accused inflicted cut injuries on either legs of CW1/PW1 with sword from near the house belonging to CW5/PW5.

3. The evidence adduced in the matter consisted the testimony of PWs' 1 to 10 and Exts. P1 to P7.

4. The direct evidence in support of the prosecution case consisted of the testimony of PW1, the victim and that of PW2 with whom PW1 was walking along the road at the time. The rest of the occurrence witnesses i.e., PWs' 3 to 5 turned hostile. It is the version of PW1 that the attack was prompted on account of some misunderstanding on the part of the accused that PW1 helped a person with whom the accused had a dispute. PW1

sustained crack fracture on the right fibula and long incised wound cutting muscles on the left leg and also two other incised wounds. Ext. P2 wound certificate was proved by PW6, the doctor of the Medical College, Thrissur, who recorded the same. It is seen from Ext. P2 wound certificate that he was brought to the hospital immediately after the incident i.e., at 8.45 p.m. The evidence of PW2 fully supported the version of PW1. The contention that PW1 has stated that PW2 ran away on witnessing the attack is no reason to disbelieve the version of PWs' 1 and 2. It is to be noted that it is on seeing the accused inflicting injuries on PW1 that PW2 ran away. PW1 has stated that he did leave the scene of occurrence altogether. I find that no contradictions or omissions have been brought out from the evidence of PWs' 1 and 2 with respect to their previous statement.

5. Of course, the weapon has not been recovered. But the same is no reason to disbelieve the version of PWs' 1 and 2. I find that both the courts below have considered in detail the evidence adduced in the matter. The evidence of PWs' 1 and 2, the prosecution witnesses appears formidable and hence no deviation is required. The conviction is confirmed.

6. Counsel for the revision petitioner has pleaded for leniency pointing out that at the time of the incident the accused was aged only 25 years and that he has no antecedents and that the incident has taken place in the year 1993 and about 14 years have elapsed since the commencement of the proceedings and that so far the accused was facing the criminal proceedings.

7. In the circumstances, I find that the sentence is liable to be modified. The sentence is modified to the period of imprisonment already undergone and also to pay a compensation of Rs.50,000/- to PW1 and in default, to undergo simple imprisonment for six months. The revision petitioner is granted three months' time to pay the amount of compensation. He shall appear before the Court below on 19.10.2007 to receive sentence.

The criminal revision petition is disposed of as above.

K.R.UDAYABHANU,
JUDGE

csl